

HOUSE BILL 3391

By DeBerry L

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 36, Part 8, relative to the consolidated
retirement system.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-36-805, is amended by designating the current language as subsection "(a)" and by adding the following new language, to be designated as subsections "(b)" and "(c)":

(b)

(1) As an alternative to the option available pursuant to subsection (a), a member may elect to participate in an optional account known as the Deferred Retirement Option Plan, (hereinafter referred to as DROP). The purpose of DROP is to allow, contractually, in lieu of immediate withdrawal from active service and direct receipt of a retirement allowance, continued employment for a specific period of time, coupled with the deferral of receipt of a retirement allowance until the end of such period of participation, at which time the member shall withdraw from active service.

(2) Participation in DROP is an option available to any member of the consolidated retirement system who meets all of the following:

(A) Has at least twenty-five (25) years of creditable service
exclusive of sick leave;

(B) Is at least 55 years of age; and

(C) Is eligible for retirement.

(3) An election to participate in DROP may be made in one-year
increments not to exceed five (5) years, nor to be less than three (3) years. A

member may participate in DROP only one time. Any voluntary termination within the first three (3) years in DROP will result in a forfeiture of a portion of his or her DROP account that constitutes the retirement allowance. However, member contributions will not be forfeited nor will any earnings attributable to the retirement allowance. There will be no forfeiture if the participation period is interrupted due to an involuntary dismissal, disability, involuntary transfer of his or her spouse, or death of the participant.

(4) A member, who chooses to participate in DROP, may elect an option allowance set out for members in § 8-36-601, at the beginning of the participation period. Otherwise, he or she shall receive the maximum benefit. Such election shall be irrevocable once the participation period begins, except as otherwise provided.

(5) For purposes of DROP, sick leave may not be converted for purposes of establishing retirement eligibility, but shall constitute creditable service for purposes of calculating the amount of the member's retirement allowance.

(6) The election to participate in DROP shall be made in accordance with procedures set forth in a uniform and nondiscriminatory election and application form adopted by the council on pensions and retirement. The election to participate in DROP may be made at any time on or after the date the member becomes eligible to participate as set out in subdivision (2) above. Such application must be made at least thirty (30) days, but not more than ninety (90) days, before the effective date of participation in DROP.

(7) Upon the effective date of the commencement in DROP, the member's service shall remain as it existed on that date for the duration of DROP. Once a member enters DROP, service credit purchases are prohibited.

All retirement contributions made on behalf of the employee shall continue to be made. The monthly retirement allowance that would have been payable, had the person elected to withdraw from service and receive a retirement allowance, shall be paid into a DROP account and shall reflect the person's creditable service and average final compensation prior to DROP participation. However, the monies within the DROP account shall remain a part of the consolidated retirement fund until disbursed to the participating member in accordance with this act.

(8) The DROP account shall accrue earnings at the same rate of return as all other funds invested on behalf of the consolidated retirement system. A person who participates in DROP shall not be eligible to receive a retiree cost-of-living increase while participating in DROP, and shall not be eligible for a retiree cost-of-living increase until participation in the plan ceases and he or she withdraws from service and has been receiving a retirement allowance for at least one full year.

(9) DROP shall not be subject to any special fees, charges, or other similar expenses of any kind for any purpose.

(10) Participation in DROP shall not affect the rights of any state employee under the state personnel system, including, but not limited to, his or her rights to longevity pay.

(11) Participation in DROP shall not affect the accrual of annual and sick leave by the participant.

(12) Participants in DROP may receive salary cost-of-living adjustments and salary increases.

(c)

(1) On withdrawing from service, a member who participated in DROP:

(A) Who fulfilled his or her contractual obligation pursuant to DROP shall receive a lump-sum payment from his or her DROP account equal to all payments made to that account on his or her behalf plus earnings thereon. No portion of such lump sum payment shall be subject to Hall income tax. In lieu of a lump-sum payment from the DROP account, to the extent eligible under applicable tax laws, the member's total accrued benefit may be "rolled over" directly to the custodian of an eligible retirement plan. The member shall also begin receiving his or her monthly benefit which had been paid directly into the DROP account during his or her participation in DROP. The member is not allowed to change the option allowance chosen at the beginning of DROP participation.

(B) Who did not fulfill his or her obligation under DROP due to involuntary termination, disability, or involuntary transfer of his or her spouse, shall receive a lump-sum payment from his or her DROP account equal all payments made to that account on his or her behalf plus earnings thereon. No portion of such lump sum payment shall be subject to Hall income tax. In lieu of a lump-sum payment from the DROP account to the extent eligible under applicable tax laws, the member's total accrued benefit may be "rolled over" directly to the custodian of an eligible retirement plan. The member shall also begin receiving his or her monthly benefit which had been paid into the DROP account during his or her participation in DROP. The member is not allowed to change the option allowance chosen at the beginning of DROP participation.

(C) Who did not fulfill his or her obligation under DROP due to voluntary termination within the first three (3) years of participation shall forfeit that portion of his or her DROP account that constitutes employer contributions. The balance of the DROP account shall be received in lump sum payment. No portion of such lump sum payment shall be subject to Hall income tax. In lieu of a lump-sum payment from the DROP account to the extent eligible under applicable tax laws, the member's total accrued benefit may be "rolled over" directly to the custodian of an eligible retirement plan. Following termination of employment, the member shall begin receiving his or her monthly benefit which had been paid directly into the DROP account during his or her participation in DROP. The member is not allowed to change the option allowance chosen at the beginning of DROP participation.

(2) If a participant dies during the period of participation in DROP, a lump-sum payment equal to the payments made to the DROP account on his or her behalf plus earnings thereon shall be paid to his or her named beneficiary or, if none, to his or her estate. The member's option allowance chosen at the beginning of DROP participation shall not be changed.

(3) At the end of the specified period for DROP:

(A) Payments into the DROP account made on behalf of the member shall cease.

(B) Payment from the DROP account shall not be made to the member until he or she withdraws from active service, nor shall the monthly retirement allowance being paid into the DROP account during the period of participation be payable to the member until he or she

withdraws from active service. The member is not allowed to change the option allowance chosen at the beginning of DROP participation.

(C) If the member does not withdraw from active service after the period specified for participation in DROP, then he or she shall resume regular membership status in the consolidated retirement system for the purpose of earning creditable service and benefits. Under no circumstance will any time spent participating in DROP be eligible to constitute service credit in the consolidated retirement system. Upon withdrawal from active service:

(i) The member shall receive a lump-sum payment from his or her DROP account equal to the payments made to that account on his or her behalf plus earnings thereon. No portion of such lump sum payment shall be subject to Hall income tax. In lieu of a lump-sum payment from the DROP account to the extent eligible under applicable tax laws, the member's total accrued benefit may be "rolled over" directly to the custodian of an eligible retirement plan.

(ii) The member's monthly retirement allowance that was being originally paid into the DROP account shall begin to be paid to the member. The member is not allowed to change the option allowance chosen at the beginning of DROP participation.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2009.